

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE

Senate Bill 704
Finance

(Senator Klausmeier, *et al.*)

Public Health - Construction Sites - Toilets and Lavatories

This bill bars any State or local entity from issuing a building permit for a construction project with a total cost of at least \$500,000 unless the construction site provides a convenient, sanitary, and properly ventilated toilet and lavatory; the lavatory must be supplied with soap, clean water, and towels, or other suitable means for hand washing. The toilet must be a flush toilet if flush toilets are provided for other personnel on site, including office personnel.

Fiscal Summary

State Effect: Likely minimal, as most State construction projects either do not require or obtain building permits, or they already comply with the bill's provisions. Any State project that is subject to the bill's provisions faces expenditure increases related to renting portable toilets with running water for hand washing and flushing toilets. Individual units with these facilities are available for rent for approximately \$275 per month; standard units without running water and working plumbing cost about \$100 per month. An increase in expenditures reflects the difference in rental costs between the two types of lavatories. Although the types of facilities required by the bill cost nearly three times as much as standard units, the impact on State expenditures is not expected to be significant.

Local Effect: Local construction projects, including school construction projects, with a value of at least \$500,000 are subject to the same cost increases as State projects, described above.

Small Business Effect: Potential minimal. Small businesses involved in applicable construction projects may experience an increase in portable toilet rental expenses. However, it is expected that these businesses pass the cost on to the project owners.

Analysis

Current Law: Local governments are responsible for issuance of building permits for construction projects. The Division of Labor and Industry within the Department of Labor, Licensing, and Regulation (DLLR) administers the Maryland Occupational Safety and Health (MOSH) program. DLLR enforces standards for toilets and lavatories established by the federal Occupational Health and Safety Administration (OSHA). OSHA requires that construction sites with 20 or fewer employees have at least one toilet; sites with 20 or more employees require one toilet and one urinal for every 40 employees; and sites with 200 or more employees require one toilet seat and one urinal for every 50 employees. The purpose of this standard is to ensure that employees do not suffer adverse health effects that can result if toilets, or an adequate number of toilets, are not available to employees. Unsanitary toilets are not considered available to employees for the purpose of meeting the OSHA requirement.

State Fiscal Effect: The Department of General Services (DGS) and the Maryland Port Administration advise that, under the principles of State sovereignty, State construction projects under their authority generally do not require or obtain local building permits, so most State capital expenditures are not affected. DGS further clarified that it does comply with the International Building Code and other standard fire safety and technical codes in managing its construction projects, but does not issue or obtain permits for State construction projects. Similarly, the Maryland Department of Transportation advises that the bill has minimal or no impact on its construction costs because the State Highway Administration, Maryland Transit Administration, and the Maryland Aviation Administration already comply with the bill's requirements on most or all of their projects. The University System of Maryland advises that temporary sinks and flush toilets are not typically installed until the building structure is complete, meaning the bill may affect USM projects that require permits.

To the extent that the bill might apply to certain State construction projects, it may increase project construction costs. However, the effect is mitigated by the availability of stand-alone portable toilets – as opposed to trailer units or “comfort stations” – with working plumbing and hand washing facilities. According to one supplier of portable toilets, these units rent for about \$275 a month and include weekly pump and haul service. Rental costs for portable toilets that do not use running water, which are typically used at construction sites, are approximately \$100 per month per unit.

Local Fiscal Effect: Locally funded construction projects, including school construction projects, that require building permits are subject to the same potential cost increases as affected State projects, described above.

Small Business Effect: To the extent that small businesses are involved in construction projects valued at more than \$500,000, they are subject to the same project cost increases. Construction firms and private contractors that are small businesses are likely to pass on the costs to the project owner. While project costs may increase slightly as a result, there is little or no direct fiscal effect on small businesses.

Additional Comments: It is unclear whether portable toilets with working plumbing and running water are available in the winter months. One supplier advises that brine water can be used to prevent freezing. However, another supplier advises that it does not rent these units between mid-November and mid-March due to the cold weather. Furthermore, brine water is not considered potable water and may not provide a sanitary means of hand washing.

The bill specifies that the site must have a toilet prior to the issuance of a building permit. The operational impact on the issuance of building permits is unclear. Moreover, building permits are typically valid for one year, and many individuals who obtain them do not begin construction for several months, if at all. Therefore, the bill may require toilets and lavatories to be in place for extended periods when there is no construction activity.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Don's Johns, Inc.; Potty Queen, Inc.; Baltimore, Carroll, Harford, and Montgomery counties; Board of Public Works; Maryland Association of Counties; Maryland Department of Planning; Maryland Department of the Environment; Department of General Services; Department of Health and Mental Hygiene; Department of Labor, Licensing, and Regulation; Department of Legislative Services

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